

March 12, 2020

MEMORANDUM

To: Seattle City Councilmembers
From: Karina Bull, Analyst
Subject: Council Bill 119754, PSST Expansion Ordinance

On March 16, 2019, the Full Council will discuss and possibly vote on [Council Bill 119754](#), proposed legislation sponsored by Councilmember Mosqueda. This memo provides an overview of the bill and identifies several policy issues for Councilmembers' consideration.

Background

The Paid Sick and Safe Time (PSST) Ordinance provides employees working in Seattle with paid leave to care for themselves or a family member¹ with a medical or critical safety need. The PSST Ordinance covers employees working for private employers and the City of Seattle and establishes the right to use paid leave for the following reasons:

Paid sick time

- When the employee is absent from work to care for a personal or family member's physical or mental health condition, including preventative medical appointments.

Paid safe time

- When an employee's place of business (*i.e.*, workplace) has been closed by order of a public official, for any health-related reason, to limit exposure to an infectious agent, biological toxin, or hazardous material.
- When an employee's child's school or place of care has been closed by order of a public official, for any health-related reason, to limit exposure to an infectious agent, biological toxin, or hazardous material.
- When the employee is absent from work for a reason related to domestic violence, sexual assault or stalking.

The amount of PSST that an employee can accrue, use, and carry over to the following year is based on the "Tier size" of the employer. The Tier size is determined by the employer's number of worldwide full-time equivalent (FTE) employees.

¹ The term "family member" means a child of any age, spouse including registered domestic partners, parent and parent-in-law, sibling, grandparent, and grandchild.

Table 1: PSST Employer Tiers

Requirements	Tier one	Tier two	Tier three
FTE employees worldwide	One employee to 49 FTEs	50 to 249 FTEs	250 or more FTEs
Accrual	One hour for every 40 hours worked	One hour for every 40 hours worked	One hour for every 30 hours worked
Use	No cap	No cap	No cap
Carry over	Up to 40 hours	Up to 56 hours	Up to 72 hours *Up to 108 hours for employers with Paid Time Off (PTO) programs

Summary

The proposed legislation would declare an emergency in response to the high number of confirmed cases and deaths from the novel coronavirus (COVID-19) and would establish an immediate effective date for an amendment to the PSST Ordinance that would expand the permissible use of paid safe time (i.e., one of the types of paid leave covered by the PSST Ordinance).

Currently, the PSST Ordinance allows employees to use paid safe time when an employee’s child’s school or place of care is closed by order of a public official. The amendment would expand the permissible use of paid safe time to cover all situations when an employee’s family member’s school or place of care is closed. The legislation would allow employees to use accrued PSST when caring for *any* family member (not just when caring for the employee’s child, the limitation under the current PSST Ordinance). The legislation would also allow employees to use paid safe time when a private school or place of care is closed for discretionary reasons (not just by order of a public official, the limitation under the current PSST Ordinance). The legislation would not increase the amount of paid safe time available to employees; but employees would be able to use their existing leave for a wider range of purposes.

As an example, on March 12, 2020, Washington Governor Jay Inslee ordered the closure of public and private K-12 schools in King, Snohomish and Pierce Counties until April 24, 2020 to limit exposure to COVID-19. Since the closures are due to a public official’s order, employees with children in these public and private schools could use paid safe time to care for their children and stabilize their incomes. But employees with family members in other types of institutions (e.g., children in daycare or preschools, parents in adult day centers) that close for the same reason would not have the right to use paid safe time. The legislation would remove closure criteria to allow employees to use paid safe time in any of the above situations.

Issue Identification

1. Closure of the employee's place of business

The legislation would not provide employees with the option of using paid safe time when an employee's place of business closes for reasons other than the order of a public official.

For example, on March 11, 2020, Washington Governor Jay Inslee announced a ban on gatherings of 250 or more people for social, spiritual and recreational activities to limit exposure to COVID-19. This ban would allow employees scheduled to work at large sporting events, conventions, and fundraisers to use paid safe time for cancelled shifts. But employees scheduled to work at other businesses that reduce operations, for discretionary reasons related to the COVID-19 emergency, would not have the legal right to use paid safe time.

Businesses can reduce operations or close for a variety of reasons that do not require a public order (*e.g.*, recommendations from public officials, threats to health or safety, public utilities failure, vandalism, inclement weather, slow business). Regardless of the reason, reduced operations or closures can result in financial hardship for both the business and employees who are counting on earnings from a scheduled shift.

An amendment to cover the closure of an employee's place of business for a broader range of circumstances could further protect the public health and economic security. Such an amendment could add payroll costs to businesses who are already struggling with reduced economic activity. Two potential approaches for mitigating the impact of this type of new requirement on businesses include limiting the scope of such an amendment to (1) closures for health- or safety-related reasons and/or (2) large employers.

Options:

- A. Permit use of paid safe time when an employee's place of business has reduced operations or closed either (1) for any reason or (2) for any health- or safety-related reason.
- B. Permit use of paid safe time when an employee's place of business for a Tier 3 employer has reduced operations or closed either (1) for any reason or (2) for any health- or safety-related reason.
- C. Make no changes to the legislation.

2. Care of a family member during the closure of a school or place of care

The legislation would not establish a clear nexus between the closure of a family member's school or place of care and the employee's need for paid safe time. The amendment states, "An employee is authorized to use paid safe time for the following reasons...[w]hen the employee's family member's school or place of care has been closed."

This language could lead to an employee using paid safe time for a family member who does not need care. Establishing the use paid safe time for the purpose of providing care could create a stronger connection to the policy goal of protecting the public health and welfare.

Options:

- A. Limit use of paid safe time to situations in which the employee is caring for a family member when the family member's school or place of care has been closed.
- B. Make no changes to the legislation.

Please contact me if you have questions about this legislation or the identified policy issues.

cc: Kirstan Arestad, Executive Director
Dan Eder, Deputy Director